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TRAINING AND TECHNICAL ASSISTANCE

Note by the Secretariat

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INTRODUCTION

1. At the twentieth session of the Commission (1987), it was decided that increased emphasis should be given both to training and assistance and to the promotion of the legal texts prepared by the Commission, especially in developing countries. It was recognized that the holding of seminars and symposia in developing countries would increase the awareness of universally acceptable international trade law instruments that offer the benefit of removing impediments to international trade caused by disparities and inadequacies of national laws. Accordingly, it was noted that "training and assistance was an important activity of the Commission and should be given a higher priority than it had in the past". [1]

2. Pursuant to that decision of the Commission, the Secretariat has endeavoured, in particular in the most recent years, to devise a more extensive programme of training and assistance than had been previously carried out. The programme is designed primarily to acquaint lawyers, government officials, the commercial and trading community, and scholars, particularly from developing countries, with the work of UNCITRAL and with the legal texts that have emanated from its work and to explain the benefits that might be derived from adopting and using those trade law instruments. During the UNCITRAL Congress on International Trade Law, which was held in the context of the twenty-fifth session of the Commission (1992), particular emphasis was placed by lecturers and participants at the Congress on the need to further increase the training and technical assistance activity. This note sets out activities of the Secretariat subsequent to the twenty-fifth session of the Commission (1992) and discusses possible future activities. It may be noted, at the outset, that while the Secretariat did every effort during that period to accommodate the increasing demand for training and technical assistance, particularly from developing countries and newly independent States, it was unable to fully meet the demand and the needs of those countries, due to a severe shortage of financial resources.

I. NATIONAL SEMINARS

3. The experience of the Secretariat in recent years has shown that, in many cases, national seminars may be more cost-effective than regional seminars. It may be recalled that in the context of a regional seminar the United Nations bears the costs of transportation of participants from their respective countries and the costs of accommodation of participants at the location chosen for holding the seminar. A consequence is that the number of participants normally has to be limited to two or three participants from each of the selected countries, with only rare exceptions where

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[1] Report of the United Nations Commission on International Trade Law on the work of its twentieth session, Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17), para. 335.

participants can attend the seminar at no cost to the United Nations. Such exceptions are generally limited to participants from the country which hosts the seminar. In the context of national seminars, the Secretariat typically organizes a mission of two or three lecturers, usually including lecturers from within and from outside of the Secretariat, to countries where the local authorities have accepted to provide accommodation for the seminar and to arrange for the invitation of participants. The costs borne by the host country are very limited since it is normally possible to ensure that a seminar is held in places where most interested persons and potential participants from that country have their residence. Thus, national seminars make it possible to obtain the participation of a maximum number of participants at a relatively low cost and to ensure particularly active involvement of the local authorities and other sponsoring organizations in the preparation and conduct of a seminar. For those reasons, the Secretariat has in the recent period emphasized national seminars.

4. In the recent series of national seminars, the lectures provided information on the basic elements of the major subject areas of international trade law. These areas included international sale of goods, international transport and storage of goods, international dispute settlement and international payments. In relation to those areas of trade law, the following legal texts formulated by UNCITRAL were presented for examination and discussion. In the area of sales, the texts included: United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980); Convention on the Limitation Period in the International Sale of Goods (New York, 1974) as amended by the 1980 Protocol; UNCITRAL Legal Guide on International Countertrade Transactions. In the area of transport, the texts included: United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg); United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 1991). In the area of banking and international payments, the texts included: United Nations Convention on International Bills of Exchange and International Promissory Notes (New York, 1988); UNCITRAL Model Law on International Credit Transfers (1992); the current work by UNCITRAL on a model law on procurement and a draft convention on guarantees and stand-by letters of credit. In the area of settlement of commercial disputes, the texts included: UNCITRAL Model Law on International Commercial Arbitration (1985); UNCITRAL Arbitration Rules; UNCITRAL Conciliation Rules; and, though predating the creation of UNCITRAL, but of crucial importance to the work of the Commission in this area, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958). In the area of Government purchasing, the texts included: draft UNCITRAL Model Law on Procurement; UNCITRAL Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works. In addition to texts emanating from the work of UNCITRAL, a number of legal texts resulting from the work of other international organizations were also presented including the following: the Agency, Factoring and Leasing Conventions, prepared by the International Institute for the Unification of Private Law (UNIDROIT); the Uniform Customs and Practice for Documentary Credits, INCOTERMS and the Uniform Rules for Demand Guarantees, prepared by the International Chamber of Commerce; and the Convention on the Law Applicable to Contracts of Sale, adopted by the Hague Conference on Private International Law.

5. The lectures were generally given by two members of the Secretariat, one or two external consultants and by experts from the host countries. All seminars were attended by

Government officials, practicing lawyers, members of the commercial and trading community and academics.

6. After the seminars, the UNCITRAL Secretariat has remained in close contact with participants to the seminar in order to provide the host countries with the maximum possible support during the contemplation and legislative process relating to the adoption and use of UNCITRAL legal texts.

7. The following is a list of the seminars that have taken place since the previous session:

(a) Bangkok, Thailand (3-5 November 1992), held in cooperation with the Ministry of Foreign Affairs and attended by approximately one hundred and fifty participants;

(b) Jakarta and Surabaya, Indonesia (9-10, 12-13 November 1992), held in cooperation with the Ministry of Foreign Trade and attended by approximately one hundred and fifty participants;

(c) Lahore, Pakistan (4-6 January 1993), held in cooperation with the Export Promotion Bureau and the Research Society for International Law and attended by approximately seventy-five participants;

(d) Colombo, Sri Lanka (9-11 January 1993), held in cooperation with the Attorney-General's Department, the Bar Association of Sri Lanka, and the University of Colombo and attended by approximately one hundred and sixty participants;

(e) Dhaka, Bangladesh (16-18 January 1993), held in cooperation with the Export Promotion Bureau and the Bangladesh Institute of Law and International Affairs and attended by approximately seventy participants;

(f) Kiev, Ukraine (7-10 February 1993), held in cooperation with the Ministry of Foreign Economic Relations and attended by approximately thirty participants;

(g) Warsaw, Poland (22-23 February 1993), held in cooperation with the Polish Chamber of Commerce and attended by approximately forty participants;

(h) Rogaska Slatina, Slovenia (22-24 April 1993), held in cooperation with the Law School of Maribor and Slovenian Government authorities and attended by approximately ninety participants.

II. FIFTH UNCITRAL SYMPOSIUM ON INTERNATIONAL TRADE LAW

(Vienna, 12-16 July 1993)

8. As announced to the twenty-fourth session of the Commission (1991) [2], the Secretariat is organizing the Fifth UNCITRAL Symposium on International Trade Law to be held on the occasion of the twenty-sixth session of the Commission. The Symposium is designed to acquaint young lawyers with UNCITRAL as an institution and with the legal texts that have emanated from its work. It may be noted that until late April 1993, it was uncertain whether sufficient funds would be available from the UNCITRAL Trust Fund for Symposia to finance the costs of the usual number of participants (approximately thirty-five). It later became clear that only twenty participants could benefit from such financing. That situation resulted from a reduction in the number and level of contributions to the Trust Fund.

9. As was the case at the Fourth Symposium in 1991, lecturers have been invited primarily from representatives to the twenty-sixth session and from members of the Secretariat. In order to save on the costs of interpretation and to be able to increase the communication between participants themselves, the Symposium will be held in French and English only. It is expected that the Sixth Symposium, which is planned for 1995, will be held in English and Spanish.

10. The travel costs of twenty participants from African countries will be paid from the UNCITRAL Trust Fund for Symposia. In addition, a number of individuals will attend at their own cost. The number of such participants is expected to equal the number of those whose travel costs are being paid.

III. OTHER SEMINARS, COURSES AND WORKSHOPS

11. Members of the UNCITRAL Secretariat have participated as speakers in the following seminars and courses where UNCITRAL legal texts were presented for examination and discussion: SIGMA Workshop on Public Procurement Systems (Vienna, October 1992), jointly organized by OECD and the European Communities (EC); Conference on Cooperation between the European Communities (EC) and CIS countries in Forming a Market Economy Legal System (Kiev, 11 to 13 November 1992); Consultations with trade officials in Singapore on all UNCITRAL legal texts and with the Singapore International Arbitration Centre and interested lawyers and arbitrators concerning the UNCITRAL Model Law on International Commercial Arbitration (Singapore, 16

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[2] Report of the United Nations Commission on International Trade Law on the work of its twenty-fourth session, Official Records of the General Assembly, Forty-sixth Session, Supplement No. 17 (A/46/17), para. 337.

November 1993); SIGMA Workshop on Practical Aspects of Implementing Public Procurement Systems (Paris, 12 to 16 April 1993); International Trade Law Post-Graduate Course held by the International Training Centre of the International Labour Organization (ILO) and the University of Turin Institute of European Studies (Turin, 10 and 11 May 1993).

IV. TECHNICAL ASSISTANCE

12. Expanding awareness of the UNCITRAL legal texts in many countries, in particular developing countries, has led to an increase in requests for technical assistance from individual Governments or regional organizations. This has normally consisted of comments in writing on reports and draft legislation, preparation of "accession kits", or a comparison of the UNCITRAL legal text with the existing law of a given country and a discussion of its advantages and disadvantages in comparison to the existing law. Since the last session, the Secretariat has, for example, reviewed in a number of countries and commented on draft legislation based on the UNCITRAL Model Law on International Commercial Arbitration and the draft UNCITRAL Model Law on Procurement. The Secretariat has also provided assistance to regional organizations, for example, by reviewing laws of member States of an organization with a view to harmonization and possible unification, and by providing a consultant.

V. CONFERENCES AND MEETINGS OF OTHER ORGANIZATIONS

13. Members of the UNCITRAL Secretariat have participated in the following conferences and meetings of other organizations at which information about UNCITRAL legal texts was presented and activities relating to the unification and harmonization of trade law were discussed: UNCTAD Ad Hoc Working Group on Trade Efficiency (Geneva, 16 to 20 November 1992); Preferential Trade Area for Eastern and Southern African States (PTA) Policy Organs Meeting and Tenth Anniversary Celebrations (Lusaka, 7 to 22 January 1993); Asian-African Legal Consultative Committee (AALCC) Annual Conference (Kampala, 1 to 6 February 1993); Conference on International Arbitration in a Changing World held by the International Council for Commercial Arbitration (ICCA) (Bahrain, 14 to 16 February 1993); Arbitrators' Symposium of London Court of International Arbitration (London, 23 to 25 April 1993).

VI. FUTURE ACTIVITIES

A. Training

14. The Secretariat expects to intensify even further its efforts to organize or co-sponsor seminars and symposia on international trade law, especially for developing countries and newly independent States. For the remainder of 1993, additional seminars are being planned for Argentina, Azerbaijan, Belarus, Brazil, Georgia, Moldova, Mongolia, and Uzbekistan. It is planned that additional requests for seminars that have been received from various African, Latin American and Caribbean countries will be met in 1994. It

should be emphasized that the ability of the Secretariat to implement these plans is contingent upon the receipt of sufficient funds in the form of contributions to the Trust Fund.

15. The Secretariat has been given a significant role in the upcoming LAWASIA'93 Conference taking place in Colombo, Sri Lanka, from 12 to 16 September 1993. LAWASIA is an international organization of lawyers from the public and private sectors from countries in the region. The biannual LAWASIA conference is designed to update participants on a wide range of major domestic and international law issues and to provide lawyers with an opportunity to meet their counterparts in neighbouring countries. It is expected this year to draw approximately 1000 legal professionals from countries in the region, including high-ranking Government law officials, judges and private sector legal practitioners. As an integral part of the conference programme, from 13 to 16 September 1993, the UNCITRAL Secretariat will conduct a special four-day workshop designed to acquaint participants with UNCITRAL legal texts. All those attending the conference will be provided with a set of UNCITRAL documents.

16. The Secretariat has agreed to co-sponsor the three-month International Trade Law Post-Graduate Course to be organized in 1994 by the University Institute of European Studies (Turin, Italy) and the International Training Centre of the International Labour Organization in Turin. In 1993, which was the third year in which the Course was offered, 19 of the participants were from Italy and 19 were from outside of Italy, with 12 of those being from developing countries. Issues of harmonization of international trade law and various items on the Commission's work programme are covered in the Course.

B. Coordination of training and technical assistance with other organizations

17. In line with the Secretary-General's policy of developing an integrated approach for the development assistance activities of the United Nations System, the Secretariat has initiated contacts with the United Nations Development Programme (UNDP), the main United Nations body responsible for the coordination of technical assistance. The aim of such coordination is to identify ways in which UNCITRAL can contribute to the efforts by the United Nations to provide countries with a comprehensive, consistent and integrated package of assistance for development. It is hoped that such coordination will ensure that the training and technical assistance activies of UNCITRAL are appropriately integrated into United Nations technical assistance programmes, in particular in the area of law reform.

18. With a view to coordination of training and technical assistance activities, the Secretariat has also initiated contacts with the recently established entity within the United Nations Secretariat, Legal Advisory Services for Development (LASD). Furthermore, the Secretariat is also in contact with organizations outside of the United Nations System. Such coordination has already been initiated, for example, with the SIGMA programme of OECD in the area of procurement, and with the Pacific Economic Cooperation Council (PECC), regarding an action programme on harmonization of trade law in the Pacific basin.

VII. INTERNSHIP PROGRAMME

19. The internship programme is designed to enable persons who have recently obtained a law degree, or who have nearly completed their work towards such a degree, the opportunity to serve as interns in the International Trade Law Branch. Interns are assigned specific tasks in connection with projects being worked on by the Secretariat. Persons participating in the programme are able to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. In addition, the Secretariat occasionally accommodates scholars and legal practitioners for a limited period of time. Unfortunately, no funds are available to the Secretariat to assist the interns to cover their travel and other expenses. The interns are often sponsored by an organization, university or a Government agency, or they meet their expenses from their own means. During the past year the Secretariat has received seven interns, from the following countries: Australia, China, France, Germany, Sudan and United States of America.

VIII. FINANCIAL AND ADMINISTRATIVE CONSIDERATIONS

20. The programme of training and assistance, in particular the holding of regional or national seminars, depends on the continued availability of sufficient financial resources. No funds for the travel expenses of participants or lecturers are provided for in the regular budget. As a result expenses have to be met by voluntary contributions to the UNCITRAL Trust Fund for Symposia. Of particular value are the contributions made to the UNCITRAL Trust Fund for Symposia on a multi-year basis, because they permit the Secretariat to plan and finance the programme without the need to solicit funds from potential donors for each individual activity. Such contributions have been received from Canada and Finland. In addition, the annual contributions from France and Switzerland have been used for the seminar programme. A financial contribution was also made by Cyprus. A specific contribution to the funding of the Fifth UNCITRAL Symposium was received from Denmark. The Commission may wish to express its appreciation to those States and organizations that have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

21. As noted above in the discussion of the planning for the Fifth UNCITRAL Symposium on International Trade Law (see para. 8), at a time when the demand from developing and newly independent States for UNCITRAL training and technical assistance activities is increasing sharply, the planning and implementation of such activities have been hampered by the fact that no additional States have made contributions, some existing contributors have reduced the level of their contributions, and some other States have discontinued their contributions or have informed the Secretariat that contributions would be discontinued in the future. Particular attention may be drawn to the fact that the funds needed for efficient training and technical assistance in the area of international trade law are of comparatively small amounts, while the benefits to be drawn from modernization and progressive harmonization of legal rules in the area of trade are considerable, not only to those countries that benefit from training and assistance, but also to the flow and development of trade.

22. In an effort to secure the financial, personnel and administrative support necessary to place the training and technical assistance programme on a firm footing, the Secretariat is exploring means to further reduce the costs of training and assistance programme and to obtain support for the programme from multilateral and bilateral aid agencies that appear increasingly to regard law reform and modernization as an essential component of their assistance activities. The Commission may wish to appeal to all States to consider making contributions to the UNCITRAL Trust Fund for Symposia so as to enable the Secretariat to meet the increasing demands in developing countries and newly independent States for training and assistance. The Commission may also wish to appeal to aid agencies, particularly those in the United Nations System, for increased support, cooperation and coordination.

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